

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070816
	:	TRIAL NO. B-0609524
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DAVID CRAWFORD,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Following a jury trial, defendant-appellant David Crawford was found guilty of aggravated murder with an accompanying firearm specification, murder with an accompanying firearm specification, and tampering with evidence.

The trial court sentenced Crawford to 20 years' to life imprisonment for the aggravated murder and three years' imprisonment for the accompanying firearm specification. The trial court imposed 15 years' to life imprisonment for the murder, and it additionally imposed three years' imprisonment for that offense's accompanying firearm specification. The sentences for the firearm specifications were themselves concurrent, but they were otherwise made consecutive to the sentences for the underlying offenses. The court further ordered that the sentences for the aggravated murder and the murder be served concurrently. Finally, the court imposed five years'

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

imprisonment for tampering with evidence, which was made consecutive to the sentences imposed for aggravated murder and murder. This resulted in an aggregate sentence of 28 years' to life imprisonment.

Crawford appealed to this court, and in November of 2008 we affirmed his convictions and the sentences imposed. In January of 2009, Crawford filed an application to reopen his appeal. His application was granted, and Crawford now raises three assignments of error for our review.

In his first assignment of error, Crawford asserts that he must be resentenced on the basis of *State v. Cabrales*² because the trial court had failed to impose only one sentence for the offenses of aggravated murder and murder. The state concedes that Crawford must be resentenced. Accordingly, Crawford's first assignment of error is sustained.

In his second assignment of error, Crawford argues that his trial counsel was ineffective for failing to object to the trial court's failure to merge the offense of aggravated murder and murder for sentencing. And in his third assignment of error, he argues that his original appellate counsel was ineffective for failing to object on these same grounds. But these arguments are rendered moot by our resolution of Crawford's first assignment of error.

Therefore, that part of the trial court's judgment imposing separate sentences for aggravated murder and murder is reversed, and this case is remanded for resentencing consistent with the law and this judgment entry.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

² *State v. Cabrales*, 118 Ohio St.3d 54, 2008-Ohio-1625, 886 N.E.2d 181.

OHIO FIRST DISTRICT COURT OF APPEALS

HENDON, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 4, 2009

per order of the Court _____.

Presiding Judge